S.B. CIVIL WRIT PETITION NO.6418/2007

Ramesh Kumar Churiwal and another.

vs.

Addl. District Judge, Deedwana and others.

Date : 22.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.SN Trivedi, for petitioners.

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Heard learned counsel for the petitioners.

The petitioners sought permission under Order 8 Rule 1(A)(3) CPC by filing application on 27.7.2007 to produce two documents – (1) patta of the property in dispute and (2) Will dated 21.7.1958.

The trial court permitted production of patta on the ground that its genuineness may not be disputed. So far as the Will is concerned, that was not allowed to produce.

Hence, this writ petition to challenge the order dated 8.8.2007.

Learned counsel for the petitioners submitted that the petitioners are not the signatories in the Will and had no knowledge of the relevant documents. The petitioners clearly mentioned in the suit that all the documents which will come to the knowledge of the petitioners/plaintiffs will be produced whenever the plaintiff will get. The Will dated 21.7.1958 as well as patta came in the knowledge and possession of the petitioners only in the year 2007 and, therefore, the trial court allowed production of patta but disallowed production of Will and thereby committed serious error of law by rejecting their application without permitting the petitioners to prove the genuineness of the Will.

I considered the submissions of learned counsel for the petitioners and perused the facts of the case.

The trial court distinguished the two documents carefully and observed that the patta can be admitted in evidence as its genuineness may not be doubtful at this stage.

So far as genuineness of the Will is concerned, the Will of the year 1958 is sought to

be produced in the year 2007 in the suit filed in the year 2005.

After going through the facts of the case, I do not find any reason to interfere in the impugned order while exercising jurisdiction under Article 227 of the Constitution of India.

In view of the above, the application filed by the petitioners for impleading parties in the writ petition who were left out, becomes infructuous and hence, the same is dismissed.

Consequently, this writ petition having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya